

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE

2024 MAR 17 PM 11:40  
U.S. DISTRICT COURT  
MIDDLE DISTRICT OF TN

RICHARD L. HUNTER, SR.  
Plaintiff,

V.

Case No. 3:23-cv-1257

VOLTYX LLC, & ARCLINE INVESTMENTS  
MANAGEMENT  
EPS-NASS Parent, Inc. Defendants.

**PLAINTIFF'S RESPONSE TO DEFENDANTS' RESPONSE AND MEMORANDUM IN  
OPPOSITION TO PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT JUDGMENT**

EPS NASS Parent, Inc., ("EPS NASS") by and through undersigned counsel, submitted this Response Memorandum in Opposition to Plaintiff's Motion for Entry of Default Judgment pursuant to Rule 4 of the Federal Rules of Civil Procedure. In support, EPS NASS cites Plaintiff's improper summons and improper service to an incorrectly named Defendant. EPS NASS requests this Court order Plaintiff issue summons and service pursuant to Fed. R. Civ. P. 4 on the correctly named defendants in this matter within a date certain. EPS NASS additionally requests 21 days to file responsive pleadings upon receipt of proper service.

**I. PROCEDURAL HISTORY**

Plaintiff filed the instant action, Case No. 3:23-cv-1257, on November 29, 2023, against Voltyx and Arcline Investments Management Corporation, EPS-NASS Parent, Inc.

("Defendants"). (ECF 1) In his Complaint, Plaintiff cites discrimination claims arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, 42 U.S.C. 1981, and the Age Discrimination

Employment Act. On November 29, 2023, the Court issued a summons to Voltyx LLC + Arcline Investments Management c/o Northwest Registered Agent, 116 Agnes Rd #206, Knoxville, Tennessee, 37919. (ECF 2) On December 11, 2023, Plaintiff filed a Return of Service on Voltyx, stating he mailed the packet to 116 Agnes Rd. #200, Knoxville, Tennessee, 37919. (ECF 4) On January 3, 2024, the Court ordered Plaintiff to serve process to Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure. (ECF 6) Plaintiff thereafter filed an undated Summons, not issued by the Clerk, and an Affidavit of Service on Defendant EPS-NASS d/b/a Voltyx, dated February 1, 2024.1 (ECF 7) On March 5, 2024, Plaintiff filed the present Motion for Entry of Default Judgment. (ECF 8) EPS NASS asserts the improper summons, failure to properly serve EPS NASS, and incorrectly named Defendant as grounds for opposition to this Motion for Entry of Default. EPS NASS requests Plaintiff provide proper summons and service to the correctly named EPS NASS Parent, Inc., after which EPS NASS requests an additional 21 days to file responsive pleadings.

2

Tennessee, 37919. (ECF 2) On December 11, 2023, Plaintiff filed a Return of Service on Voltyx, stating he mailed the packet to 116 Agnes Rd. #200, Knoxville, Tennessee, 37919. (ECF 4) On January 3, 2024, the Court ordered Plaintiff to serve process to Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure. (ECF 6) Plaintiff thereafter filed an undated Summons, not issued by the Clerk, and an Affidavit of Service on Defendant EPS-NASS d/b/a Voltyx, dated February 1, 2024.1 (ECF 7) On March 5, 2024, Plaintiff filed the present Motion for Entry of Default Judgment. (ECF 8) EPS NASS asserts the improper summons, failure to properly serve EPS NASS, and incorrectly named Defendant as grounds for opposition to this Motion for Entry of Default. EPS NASS requests Plaintiff provide proper summons and service to the correctly named EPS NASS Parent, Inc., after which EPS NASS requests an additional 21 days to file responsive pleadings.

#### **Rebuttal:**

Plaintiff filed an updated Summons and complaint that was stamped and received by the Clerk of the Court. Furthermore the motion for Default Judgement was also filed and acknowledged receipt by the Clerk of the court and date stamped.

Plaintiff sought every means possible to legally serve the Agent of Record for the defendant by mailing the initial summons and complaint to what he believed was the Corporate office of Voltyx, LLC Arcline Investment Management at **9 Lea Avenue, Nashville, Tennessee 37210**. This is where the Plaintiff worked and this is where the CEO, Mark Day, The General Counsel, The Training Directors and Arcline Executive met regularly for meetings and this is where domestic training took place. See attached Exhibit where the notice was sent Certified Return Receipt Requested. On December 1, 2023. The documents were returned unclaimed.

Furthermore the initial summons and complaint sent to the Registered Agent @ 116 Agnes Rd. #200, Knoxville, Tennessee, 37919. Was signed for. This address was given to the Plaintiff over the phone by a representative with the Secretary of States office of Tennessee.

A legal summons and complaint was sent to the Registered Agent EPS-NASS C/O Ct System located @ 300 Montvue Road , Knoxville, Tennessee 37919 and received on January 31, 2023 by a Service of Process Company the receipt was via an Affidavit of Service with the Knox County Seal. The Defendants Never responded to this legal Summons and Complaint.

Efforts to contact the defendant was to no avail to verify the address of the Corporate Office . By calling the number on their website (855) 459-4377 a person answers and refuse to disclose the mailing address or disclose any names of where to send suit papers. They simply ask to take a message and someone will call you back. Also, on the defendant's website there is no address listed for the Corporate office. <https://www.voltyx.com/> The defendants did everything possible to avoid service. Finally the plaintiff received his W-2 tax documents and realized that these documents were sent from **EPS-NASS Parent Inc. 58 Progress Parkway, Maryland Heights, MO 63043.**

At that point the Plaintiff sent the summons and complaint to this address via certified mail and received a response from the defendants attorneys.

## II. LEGAL ARGUMENT

The Defendants were legally and properly served and refused to respond. The Clerk of the Court verified the Service by a stamped and dated copy filed with the court.

The Proposed Corporate office at 9 Lea Avenue, Nashville, Tennessee was closed without notice and or the defendants leaving a forwarding address with the United States Postal Service.

## CONCLUSION

Wherefore, based upon the foregoing, The Plaintiff respectfully requests the court grant Plaintiff's request for entry of default judgment against EPS NASS Parent, Inc. Voltyx, LLC and Arcline Investment Management , Inc.

DATED: March 18, 2024.

Respectfully submitted,

Richard Lewis Hunter, Sr.

108 McGavock Circle Franklin, Tennessee 37064 [adjusternet@comcast.net](mailto:adjusternet@comcast.net)

Pro Se Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of March, 2024, a copy of the foregoing Memorandum in Opposition to Defendants's Motion in Opposition to Plaintiff's Motion for Default Judgment was emailed to the Defendants Attorneys and will filed with the Clerk of the United States District Court.

GORDON REES SCULLY MANSUKHANI, LLP /s/

Desireé J. C. Goff Heather Gwinn, BPR 25931

Desireé J. C. Goff, BPR 31136

Gordon Rees Scully Mansukhani, LLP

4031 Aspen Grove Dr. Suite 290 Franklin, TN 37067

Telephone: (615) 772-9000

hgwin@grsm.com dgoff@grsm.com

Counsel for Defendant EPS NASS Parent, Inc.



## AFFIDAVIT OF SERVICE

Richard Lewis Hunter, Sr.  
Plaintiff(s)

US District Court for Davidson County TN  
Court

Vs.

EPS-NASS d/b/a Voltyx-Arcline  
Defendant(s) Investment Management

3:23-CV-1257  
Case Number

I, Will Johnson, being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

### Service:

☒ I served:

EPS-NASS d/b/a Voltyx-Arcline Investment Management

14 March 2024  
Date

2:35 pm  
Time

- ☐ At home address listed  
☐ At place of employment listed  
☒ Other location

At: 300 Montvue Rd Knoxville TN 37919  
service c/o CT Corporation System,  
registered agent

### Non-Service:

☐ After due search, careful inquiry, and diligent attempts at the address(es) listed, I have been unable to effect process on:

For the following reason(s):

- ☐ Moved, left no forwarding address  
☐ No response after multiple attempts, no contact  
☐ Evading service  
☐ Bankruptcy  
☐ Deceased  
☐ Other \_\_\_\_\_

I, Will Johnson, certify, under penalty of perjury, that my statements contained within the foregoing affidavit are true and correct to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

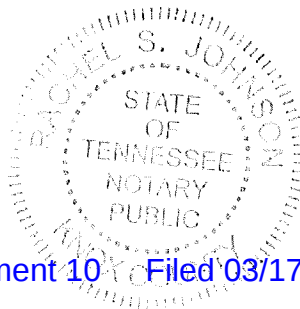
Subscribed and sworn to before me on: 15 March 2024  
Date

Raeann Jeff

Notary Public

Will Johnson  
Process Server Signature

My commission expires: 4/5/25



**William Johnson**  
**16 Emory Place #201**  
**Knoxville, TN 37917**  
**(865) 399-3115**

**SENDER: COMPLETE THIS SECTION**

- ☐ Complete items 1, 2, and 3.
- ☐ Print your name and address on the reverse so that we can return the card to you.
- ☐ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Volity LLC  
The Fine Furniture  
920A Avenue  
Franklin, TN 37204*

9590 9402 8506 3186 5254 45

2. Article Number (Transfer from service label)

9589 0710 5270 0986 0820 04

US Form 3811, July 2020 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature ☒ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

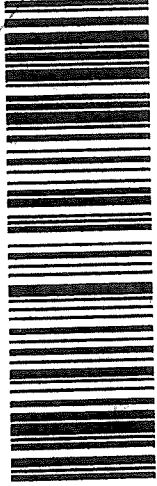
D. Is delivery address different from item 1? ☐ Yes ☐ No  
If YES, enter delivery address below:

3. Service Type

<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Collect on Delivery Restricted Delivery	

Domestic Return Receipt

**CERTIFIED MAIL**



9589 0710 5270 0986 0820 04

RDC 99



37210

**\$8.80**

U.S. POSTAGE  
FCM LETTER  
FRANKLIN, TN 37  
NOV 29, 2023

R2303S100455-04

Richard & Roxanne Hunter  
108 McGavock Circle  
Franklin, Tenn 37064

RETURN RECEIPT  
REQUESTED

*12/23/23*

*Volity LLC  
920A Avenue  
Franklin, TN 37204*

*MAH*

RETURN TO SENDER  
UNCLAIMED  
REFUSED

*12/20/23*

MIKE

372 DE 1

0012/21/23

RETURN TO SENDER  
UNCLAIMED  
UNABLE TO FORWARD

BC: 37064293808 \*0759-07825-29-43

372108852958



**SENDER: COMPLETE THIS SECTION**

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*MAZDA DRY-CE C*  
*ERS - MASS - Machine*  
*SE Progress Play*  
*mailing to the wife*  
*1330 63 MD*

9590 9402 8732 3310 2137 84

2. Article Number (Transfer from service label)

9589 0710 5270 0909 8971 11

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Re.

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*Handwritten Signature*

☐ Agent  
☐ Addressee

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? ☐ Yes ☒ No  
If YES, enter delivery address below:

3. Service Type

☐ Adult Signature  
☐ Adult Signature Restricted Delivery  
☐ Certified Mail®  
☐ Certified Mail Restricted Delivery  
☐ Collect on Delivery  
☐ Delivery Restricted Delivery  
☐ Signature  
☐ Signature Restricted Delivery

☐ Priority Mail  
☐ Registered Mail  
☐ Registered Mail Restricted Delivery  
☐ Signature Confirmation™  
☐ Signature Confirmation Restricted Delivery

(over \$500) all Restricted Delivery

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*Handwritten Signature*

☒ Agent  
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

*Trace Sammons*

*12/1/23*

D. Is delivery address different from item 1? ☐ Yes ☒ No  
If YES, enter delivery address below:

**SENDER: COMPLETE THIS SECTION**

Complete items 1, 2, and 3.

Print your name and address on the reverse so that we can return the card to you.

Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

*W L L C & Aclinc*  
*THWEST REGISTAL Acl*  
*INES ROAD # 200*  
*ville, TN 37919*

9590 9402 8371 3156 6804 53

Article Number (Transfer from service label)

9589 0710 5270 0909 8971 11

Form 3811, July 2020 PSN 7530-02-000-9053

3. Service Type

☐ Adult Signature  
☐ Adult Signature Restricted Delivery  
☐ Certified Mail®  
☐ Certified Mail Restricted Delivery  
☐ Collect on Delivery  
☐ Collect on Delivery Restricted Delivery  
☐ Delivery Restricted Delivery

☐ Priority Mail Express®  
☐ Registered Mail™  
☐ Registered Mail Restricted Delivery  
☐ Signature Confirmation™  
☐ Signature Confirmation Restricted Delivery

☐ Collect on Delivery Restricted Delivery  
☐ Delivery Restricted Delivery